No. 32

In the Supreme Court of the United States

October Term, 1957

UNITED STATES OF AMERICA EX REL.
LEE KUM HOY, ET AL., PETITIONERS

v.

JOHN L. MURFF, District Director,
Immigration and Naturalization Service

On Writ of Certiorari to the United States Court of Appeals for the Second Circuit

SUPPLEMENTAL MEMORANDUM AFTER ARGUMENT

J. LEE RANKIN,
Solicitor General,

RUFUS D. MCLEAN,
Acting Assistant Attorney General,

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In the course of oral argument, counsel for the Government was asked to provide the Court with information on several aspects of the case.

1. In connection with the State Department dispatch submitted to the Court, the Chief Justice asked that it be ascertained whether the document had ever been classified and, if so, when it was declassified. We are informed by the State Department that the document in question has never been classified. It first received publicity outside of the several government offices to which it was distributed when an

article concerning it, entitled "Commentary on the Drumright Report", was published by a Chinese language newspaper in San Francisco in May, 1956.

2. In response to Mr. Justice Harlan's inquiry as to the extent to which the Government brief relies on the report for its statements of fact, we believe that wherever reliance is placed on the report a specific reference is made to it. Such references are noted at pages 21, 23, 25, 27, 29, 30, 31 and 32. However, in most of these instances the facts stated could equally have been based on Mr. Friedman's testimony, R. 365a-372a, or to the reported decision in *Mar Gong* v. *McGranery*, 109 F. Supp. 821 (S.D. Cal.).

3. Mr. Justice Frankfurter asked whether statistics are available to show the number of American citizens born in China who have made application for entry as compared with American citizens born in other foreign countries. Inquiry has been made of both the Immigration and Naturalization Service and the State Department, and we are informed that such figures are not available and cannot readily be obtained. We are further informed that, if such figures could be collected, their value to the subject matter of this case would be doubtful since they would include children of American couples temporarily abroad on government or private business. In petitioners' reply brief, reference is made to 1954 and 1955 figures on "Certificates of Derivative Citizenship". I attached a copy of the Immigration and Naturalization Service's Annual Report for 1956, which reprints those figures and those for 1956 at

page 121. However, these are not meaningful for the purpose of this case since certificates of derivative citizenship are granted only to persons in the United States whose parents have acquired citizenship after their birth. The situation is thus dissimilar to that involved here. The figures on alien children of American citizens admitted as nonquota immigrants in 1956, referred to for the year 1954 by petitioners on page 8 of their reply brief, appear on page 38 of the same report. Their application to the question before the Court is also remote.

4. The Chief Justice asked about the testimony with reference to the accuracy of the blood testing procedures in the particular case. Dr. Sussman's testimony appears at R. 168a-185a, Mr. Frank Monica's at R. 191a-208a, and Dr. Cameron's at R. 208a-216a. This testimony is summarized by the Special Inquiry Officer at R. 226a-231a and by the Board of Immigration Appeals at R. 247a-265a.

Respectfully submitted,

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NOVEMBER, 1957.

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